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(2022) Offending girls and restorative justice: a critical analysis. Youth Justice: an international journal, 22 (2). pp. 166-188. ISSN 1473-2254

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Version: Accepted Version

Publisher: SAGE Publications

DOI: <https://doi.org/10.1177/1473225420967751>

Please cite the published version

<https://e-space.mmu.ac.uk>

Offending Girls and Restorative Justice: A Critical Analysis

Abstract

The contemporary popularity of restorative justice, within youth justice, has expanded significantly in recent decades. Despite this, there is a considerable lack of research which explores girls' experiences of restorative justice interventions. Drawing on the experiences of young female offenders, who have participated in restorative justice conferencing, this article presents research findings generated from interviews undertaken with 15 girls and 13 youth justice practitioners, in order to critically analyse their views and experiences through a gendered lens. The analysis and discussion presented provides a critical insight into the ways in which girls' experience, internalise and engage in restorative justice conferencing and how these experiences fundamentally conflict with practitioners' views on conferencing with girls in the youth justice system.

Keywords

conferencing, girls, restorative justice, youth justice

Introduction

Despite restorative justice (RJ) being firmly embedded within youth justice policy and practice, on an international scale (Lynch, 2010), girls' experiences of participating in restorative interventions have been largely neglected. The literature, which does discuss issues of gender and RJ, tends to 'address the ways in which it may help or hinder female victims . . . [and] few have ventured to consider how it may help or hinder female offenders' (Daly, 2008: 113). This gender gap is further amplified when considering the experiences of offending girls. This article provides a critical exploration of offending girls' experiences of participating in a RJ conference.

Drawing upon empirical data collected from interviews with 15 girls who have participated in a RJ conference and 13 RJ practitioners working in the Youth Justice Service, the article provides a unique insight into RJ practices used with girls in the justice system. Through the juxtaposition of girls' subjective experiences of participating in a RJ conference and practitioners' perspectives of their experiences the data and analysis presented reveals conflicting and divergent viewpoints concerning RJ practices used in the Youth Justice Service. Focusing specifically on the operations, dynamics and outcomes of RJ conferencing with young female offenders, the article draws attention to the ways in which the girls' viewed their participation in the conference as a negative experience, while practitioners viewed RJ as an overwhelmingly positive intervention, particularly suitable for girls involved in the justice system.

The findings which illustrate this dichotomy are discussed in relation to three themes: RJ rhetoric versus reality, perspectives on emotions and outcomes and issues of power and control. Fundamentally, the article conceptualises this dichotomy between practitioners' perspectives and girls' narratives as a strategy of resistance, on behalf of the girls, to RJ interventions which fail to acknowledge or respond to the complex realities of girls' lives and the way in which they are shaped by experiences of social injustice, oppression and inequality. Their resistance can be seen as a strategy to reformulate their own subjectivities, and make sense of, and navigate, their experience through the demonstration of agency, which rejects the narrow confines of the victim and offender status prescribed within RJ discourse.

The Origins and Development of Restorative Justice

In recent decades, RJ has gained significant popularity and momentum within criminal justice and political and academic discourse nationally and internationally (Boyes-Watson, 2018). Proponents consider it to be an alternative paradigm for delivering justice, concerned with repairing harm in the aftermath of an offence as opposed to the infliction of punishment. At the centre of RJ philosophy is the desire for an inclusive, participatory approach to conflict resolution, which emphasises the importance of restoring relationships between victims, offenders and their communities (Zehr, 1990).

Philosophically situated as an alternative method of crime control, RJ has come to be closely associated with reintegrative shaming theory (RIST) developed by Braithwaite (1989). The central premise of RIST is

. . . that locations in space and time where shame is communicated effectively and reintegratively will be times and places where there is less predatory crime . . . (Braithwaite and Braithwaite, 2001: 39)

The theoretical arguments contained within RIST are considered to be an important influence with respect to the growth of RJ in Western society and have had a significant practical impact on the development of restorative practice, particularly restorative conferencing (Retzinger and Scheff, 1996; Young and Goold, 1999). RJ conferencing is a process whereby 'victims and offenders involved in a crime meet in the presence of a trained facilitator with their families and friends or others affected by the crime, to discuss and resolve the offence and its consequences' (Strang et al., 2013: 3). It is the model of RJ conferencing which appears to have had the most influential impact with regard to the application of Braithwaite's (1989) RIST and the proliferation of restorative practice outside of Australia and New Zealand (Johnstone, 2011).

This model of restorative conferencing, initially used in New Zealand, took the form of Family Group Conferencing (FGC), and was 'conceived as instances of reintegrative shaming in practice' (Zernova, 2007: 13). Not only did FGC act as a 'catalyst for, and beacon of, the international restorative justice movement' (Crawford and Newburn, 2003: 27), it also 'proved the most influential' in terms of the development of RJ within the United Kingdom and its subsequent extension into the youth justice system (Young, 2001: 195).

RJ has gained significant momentum as an alternative approach to delivering justice which, proponents claim, restricts punitive state intervention and enhances restitution. The values of RJ, such as 'inclusion', 'resolution' and 'amends' (Van Ness and Strong, 2015: 49) have become attached to RJ policy and practice and it has received unprecedented support on an international scale including endorsement from both the Council of Europe and the United Nations Economic and Social Council in advocating for the use of RJ as a response to youth crime (Lynch, 2010; Schiff, 2013). Further to this, is the development of an international evidence base indicating that RJ interventions have a beneficial effect on victim satisfaction (Shapland et al., 2011; Sherman and Strang, 2007). In the context of youth justice, RJ has also gained momentum in Australia in the form of FGC implemented initially in New Zealand by The Children, Young Persons and Families Act 1989. In a United Kingdom context, statutory based RJ, similar to the New Zealand model, was implemented in Northern Ireland in the form of The Youth Conferencing Service by the Justice (Northern Ireland) Act 2002 (Campbell et al., 2005) and in Ireland, diversionary based family conferences were introduced by the Children Act (2001; Kilkelly, 2014). While in England and Wales, RJ has become embedded into the youth justice sphere following its formal implementation as a response to youth crime by The Crime and Disorder Act 1998, and the subsequent Youth Justice and Criminal Evidence Act 1999.

Critiquing Restorative Justice

Despite this support, the momentum to incorporate RJ as a formal response to youth crime has been critiqued, specifically with regard to the logic in which legislative changes and RJ policy and practice has been implemented and the tensions and contradictions which they embodied (Crawford, 2002; Muncie, 1999). For example, within the United Kingdom, the impetus to incorporate RJ as a formal response to youth crime has been rigorously debated in relation to issues of net-widening, responsabilisation and risk governance (Ashworth, 2013, 2015; Gray, 2005; Johnstone, 2011; Kemshall, 2008; Levrant et al., 1999; O'Malley, 2009).

Broadening these critiques, is the concern that the 'victim-offender binary' embodied with RJ practice serves to divide complex, interconnected statuses as 'abstracted and essentialised constructs' free from structural divisions and socio-economic polarisation (Cunneen and Goldson, 2015: 143). This is particularly problematic given that young people belong to a 'category of social differentiation that brings with it structural inequalities of its own that then articulate with processes of victimisation and criminalization' (Phoenix, 2016: 135). For young people in conflict with the law, these processes expand across poverty, exclusion from education and victimisation (Lynch, 2010; McAra and McVie, 2010; Webster, 2019). Recognising the social harms and injustices young people are subjected to, therefore raises serious questions concerning the appropriateness of attributing a young person to 'an "offender" identity in a formal "restorative" process while harbouring knowledge of the same child's "victim" status' (Cunneen and Goldson, 2015: 144).

In addition to raising questions on issues of social justice, it has been suggested that the development of RJ into the youth justice system has meant that 'notions of reciprocity, inclusivity, reparation, restoration, healing and closure', inherent within the theoretical premise of RJ, have been subsumed within official policy which emphasises 'responsibility and responsabilisation' (Haines and Case, 2015: 146). Therefore, 'socio-economic, structural constraints which limit young offenders' choices, as a result of deprivation and social exclusion, remain unchallenged as a predictive factor concerning young peoples' offending behaviour' (Gray, 2005: 955). This focus on responsabilisation, as opposed to responding to the broader structural and mitigating factors surrounding an offence imposes, according to Newbury (2008), significant restrictions upon the reintegrative capacity of RJ.

Furthermore, the central role RJ affords to community has generated concerns regarding the extent to which the concept of community is characterised by conflicting and contradictory relations of power, which ensure certain groups, and individuals are not given equal access to a community compared to others. In this context, the emphasis RJ places upon an idealised communitarian society is problematic. Given that many societies are fragmented through social inequality and adversity (Fox, 2016), it is not possible, in such circumstances, to achieve the ideal conditions required for RJ processes to be realised. Such arguments are especially relevant to young people in conflict with the law and embedded within a youth justice system that continues to be plagued by systemic inequality.

In the context of exploring RJ processes and interventions through a children's rights perspective, issues have also been raised with regard to the extent to which the conceptual framework of RJ and the emergent practice base surrounding it adhere to international standards for children's rights in youth justice. For example, the focus on victim's rights and the need to repair harm to victims is one of the central principles of RJ, however it is contended that the extent to which RJ is saturated with concerns in relation to victims' needs actually prevents compliance with Article 40 of the Convention of the Rights of the Child which requires youth justice systems to adopt a 'young-person centred' approach to youth justice (Lynch, 2010: 173). The widespread enthusiasm for RJ and the emphasis its proponents place on achieving 'reconciliation and reintegration' is also challenged on the grounds that

the pursuit of such 'ideological standpoints [. . .] may cloud judgment with regards to the potential for coerciveness and unfairness in restorative justice' (Lynch, 2010: 175) and divert attention away from ensuring the procedural and legal safeguards which protect children's rights are adhered to. Such critical issues allude to some of the fundamental questions surrounding RJ in the contemporary youth justice sphere.

Therefore, there is now a significant amount of literature which both critiques and advocates RJ practice. However, research focused upon young female offenders' experiences of RJ interventions continues to remain underdeveloped in both bodies of literature. Predominantly, the existing policy, research and associated critical literature concerning the use of RJ with young offenders fails to consider gender as a category of analysis, which is relevant to RJ practice.

This is perplexing given that the history of girls and youth justice reflects attempts to control their behaviour through criminal justice and welfare interventions which seek to enforce and communicate moral and behavioural expectations associated with ideological discourses of femininity (Worrall and Gelsthorpe, 2009). In the past girls, 'have been socially constructed within a range of legal, welfare, and political discourses as, on the one hand, deeply maladjusted misfits and, on the other . . . dangerous folk devils, symbolic of postmodern adolescent femininity' (Worrall, 2004: 44).

Conflicting discourses of welfare and justice characterised much of the 20th and 21st centuries responses to girls and despite there being some 'historical continuities' in these responses, most prominently in relation to expectations relating to appropriate female behaviour, emanating from dominant discourses of femininity (Worrall and Gelsthorpe, 2009: 211), such responses have not been benign for girls. For example, policy and practice underpinned by welfarism 'were closely tied to ideas about "respectable" femininity' (Sharpe and Gelsthorpe, 2009: 196) and are suggested to have acted as a 'spurious justification for placing excessive restrictions on individual liberty particularly for girls', most prominently due to concerns about 'perceived sexual behaviour' or 'offending against the codes of adolescent femininity' (Worrall and Gelsthorpe, 2009: 296). According to Hudson (1989), 'embedded at the heart of British welfare practices with adolescent girls was almost a psychic fear of predatory female sexuality' (p. 197). Represented as a 'protector discourse', Hudson (1989) argued that welfarism for girls in the 20th century was driven by trepidation of troubled, sexually active girls who were not 'possessed by any one male' (p. 296). The prevalence of welfarism during this period continued to reinforce girls' unequal position within society by failing to address the legitimate needs of girls while at the same time devaluing their social status.

Escalating political and social aversion to welfarism ultimately resulted in a shift to a justice model of intervention underpinned by due process, proportionality and individual rights (Asquith, 2002). This was prompted in part by the critique that girls' behaviour was being 'policed on "moral danger" grounds' (Sharpe, 2012: 17) but also in response to sustained critique from a range of critics who contended that welfarism did not afford young people 'sufficient legal and judicial safeguards' (Asquith, 2002: 276). Supporters of the justice model advocated for increased use of cautions for low-level offences and minimal welfare intervention, except for the most serious cases (Muncie, 2015).

In theory, the shift to a justice-based model of intervention could have provided a resolution to the bias girls were subject to under the welfare model (Sharpe, 2012). However, such optimism was short-lived as the 'welfarisation' and "soft policing" of young women's behaviour, by both formal and informal social control mechanisms, . . . [gave] way to the straightforward criminalization of that same behaviour (Worrall, 2001: 86). As such, 'increasing numbers of young women were being incarcerated, not on spuriously benevolent welfare grounds but on spuriously equitable "justice" grounds' (Worrall, 2001: 86).

The conflicting discourses of welfare and justice reveal the extent to which youth justice, throughout the 20th and 21st centuries, has been subjected to interchanging discourses of care and control. However, despite such drifting trends in youth justice policy and practice, since the beginning of the 21st century, RJ has remained a consistent approach within central government's aim to prevent young peoples' offending behaviour and (more recently) divert them away from the criminal justice system. While critical themes have developed, which problematise the use of RJ interventions with young people and despite the contemporary popularity of RJ, research focused upon young female offenders' experiences of RJ interventions remains unsubstantial. As a result, there remains 'a number of unanswered questions about restorative justice practices in relation to young women offenders' (Alder, 2003: 125).

Methods

The data informing this article are drawn from research concerned with addressing a significant lacuna in knowledge regarding the experiences of RJ, for young female offenders involved in the youth justice system in England and Wales. A qualitative approach to the empirical study was utilised and semi-structured interviews were undertaken with 15 girls who participated in a RJ conference, as part of a youth justice intervention, and 13 youth justice practitioners who had experience of supporting girls' participation in RJ conferences.

The process of recruiting and interviewing participants for this study took place over a total of 8 months, between June 2015 and February 2016. The 13 practitioners interviewed were employed within eight different youth offending teams. A degree of diversity was achieved in terms of their job role and practitioners' experience of working within the youth justice service ranged from 6 months to 14 years. Their involvement in RJ varied from team manager, senior RJ practitioner, victim liaison officer and youth offending team case manager.

Four of the girls interviewed were subject to a referral order, nine were subject to a diversionary intervention and two received a youth restorative disposal. All the girls' participation in the RJ conference was facilitated by the youth offending team in which they were involved and the locations where the conferences took place were the girls' school, family and community centres or youth offending team offices. The average age of all 15 of the girls interviewed for the study was 15 years and all were White British. Twelve of the girls lived with either one or both of their birth parents. For the three girls who did not live with their parents, one was looked after by her paternal grandparents, another was living in a mother and baby unit and one was a looked after child living with foster parents. All but two of the girls interviewed for the study were of compulsory school age. Eight of these girls were in full time, mainstream education, although one was on a reduced timetable. Four girls attended alternative education provision and one girl aged 14 was excluded from school and in receipt of no educational provision. Two of the girls had previously come into the remit of the youth justice system.

Table 1 illustrates the age of the girls interviewed and the various youth justice supervision and intervention they were subject to.

Table 2 illustrates the job role and sex of the sample of practitioners interviewed.

Table 1. Age of participants.

Age in years	Referral order	Diversionary intervention	Youth disposal	restorative	Total
12	–	1	–		1
13	2	4	–		6
14	–	2	1		3
15	–	1	–		1
16	1	–	–		1
17	1	1	1		3

Table 2. Sample of practitioners.

Job role	Male	Female
Substance misuse worker *previously restorative justice worker	1	–
Senior restorative justice practitioner	1	–
Prevention and restorative justice co-ordinator	1	–
Victim liaison officer	–	2
Youth offending and family intervention worker	–	1
Restorative justice co-ordinator	–	1
Youth offending senior team officer	–	1
Restorative justice and volunteers team manager	1	–
Restorative justice victim worker	1	2
Restorative justice officer	1	–
Total	6	7

Two different interview schedules were developed for this research project. Both schedules consisted of predetermined open-ended questions, which focused on girls' experiences of RJ conferencing. The girls' interview schedule focused on their experiences of the youth justice system, the reactions they received following their offence, their subjective experiences of participating in the RJ conference and the types of emotions the conference evoked within them. The interview questions were developed based upon these areas of enquiry. For the girls, most of the interviews lasted around 25 minutes whereas the longest lasted 1 hour.

Data analysis

The interview data were analysed using thematic analysis and NVivo software was used to support the identification of themes inherent within the data set. Two NVivo projects were created, one for the purpose of coding and analysing the interview data provided by the girls interviewed and another for coding and analysing practitioners' interview data.

In the first instance, the process of coding involved categorising participants' responses and discussions in relation to each question posed in the interview schedules into free nodes for organisational purposes. In NVivo, a 'concept or category or code' (Bazeley, 2007: 73) is stored as a node. This initial coding facilitated the identification of detailed codes inherent within each data set. These codes were saved as further nodes and used to store emerging and divergent themes and issues identified through the analysis of free nodes. The nodes were then explored across the data set and coded into specific themes.

Given that the project was exploring an under-researched area, the analysis was not driven by a pre-existing coding frame, meaning that the themes identified were developed from the data itself (Patton, 1990). The themes discussed within this article were identified through this process. For example, the prevalence of emotions evoked within girls, during their participation in the RJ conference, was inherent within girls' interview narratives. These responses were then attributed to various codes such as remorse and anger. A decision was then made with regard to which theme these codes would be further analysed within. Various codes emerged during this process. Further examples of these codes included gendered discourses of appropriate behaviour, nervous laughter, power and control and negative perspectives of RJ in practice. The different codes, which emerged during this process, were then thematically analysed and explored in relation to the themes of 'power relations', 'conflicting perspectives' and 'emotions'.

A note of validity

Denscombe (2010) asserts that 'claims to validity involve a demonstration that the researcher's data and his or her analysis are firmly rooted in the realms of things that are relevant' (p. 143). The merits of qualitative research methods, underpinning this research, are centred upon the benefits and values of studying the lived realities of girls' experiences, and the importance of allowing them to identify matters, which are personally significant, rather than compiling statistics. This abandons the goal of generalisability as a reflection of good research in exchange for the production of rich data and an emphasis on in-depth investigation (Bridges and Horsfall, 2011; Bryman and Burgess, 1994). Therefore, identifying 15 girls to participate in this research and providing them the opportunity to share their personal experiences in relation to RJ, while adhering to a reflexive approach to the empirical work achieves the goal bringing girls' experiences of RJ conferencing to the forefront of criminological enquiry, thus providing a measurement of validity to the research findings (Sarantakos, 2005). The following sections discuss three themes which emerged from the research study in further depth: conflicting perspectives of RJ in practice, the silencing of girls' subjectivities and issues of power and control.

Rhetoric Versus Reality: Juxtaposing Girls' Experiences and Practitioners' Perspectives

The findings which emerged from the study revealed a distinction between predominantly positive attitudes towards RJ conferencing, on behalf of practitioners, and comparatively negative attitudes expressed by the girls. For example, all practitioners interviewed supported the use of RJ conferencing as a youth justice intervention for young people who offend. However, in contrast, the girls did not support the enthusiasm for RJ expressed by practitioners:

I live and breathe restorative justice, so the positive elements are fantastic to me . . . I see victims healed and young people making amends. (Lynn, Restorative Justice Victim Worker)

It was negative. The whole thing was negative. We were constantly reminded what we done and how wrong it was and fair enough that's what the point of the meeting was but it was the way they said it, it was horrible. (Sarah, 17 years)

The girls did not value RJ conferencing to the same extent as the practitioners interviewed:

[Interviewer: Did you find it a positive or a negative experience?] Really, really negative. She [facilitator] brought my whole history up with the police and I felt really ashamed because that was private. (Sam, 14 years)

I don't know . . . a bit [negative] because it made me feel uncomfortable . . . Just talking about it . . . going over it again . . . it just made me feel sad . . . it was just like them against me. (Amy, 12 years)

However, in distinction to such findings, the quotes from practitioners, presented below, emphasise their eagerness towards RJ:

I don't think it can ever have a negative effect. (Debbie, Victim Liaison Officer)

I think it's good . . . I think it works . . . I haven't come across any negatives currently . . . I have never known it to become negative. (Scott, Restorative Justice Worker)

Such positive regard for RJ practice contributed to a wider consensus inherent within RJ discourse which presents it as an 'unequivocally positive' intervention (Cunneen and Goldson, 2015: 139), which is suitable to be used with young people at any stage of the youth justice system (Haines and Case, 2015).

Furthermore, practitioners identified RJ conferencing as an effective intervention which delivered successful outcomes for both victims and offenders. Such successful outcomes were conceptualised by practitioners as enabling young people to be held accountable for their offending, allowing victims closure while giving young people an opportunity to repair the relationships with those harmed as a consequence of their offence:

I think it is vital to use restorative justice. I am a big believer in restorative justice . . . It gives the young person the opportunity to be forgiven and not persecuted . . . It's a fresh start, it's an opportunity. (Lynn, Restorative Justice Victim Worker)

Practitioners' positive regard for RJ conferencing, was also attributed to the opportunity RJ conferencing provided to victims and offenders to share their own accounts of the offence:

It [restorative justice] gives you the chance to say 'yeah I did it and I am really sorry' . . .

(Debbie, Victim Liaison Officer)

I have had victims who have come out of there feeling like they have had a voice and it has made a massive impact on them. (Gary, Restorative Justice Victim Worker)

It has been argued that RJ processes should 'seek to maximise a sense of agency through the active participation and involvement of offenders in the decision making process' (O'Mahony and Doak, 2017: 93). In line with such emphasis, all practitioners contextualised RJ conferencing as an intervention which afforded all parties a participatory role. However, this positive conceptualisation of RJ conferencing, was not exclusively shared by the girls as the majority of them perceived their participation in the conference as a punishment.

[Interviewer: So seeing her [victim] was a punishment?] Yeah . . . Because I nearly killed her, so I don't really want to see her . . . what we did was wrong wasn't it? But I don't know, it was a punishment like they treated us like we wanted to do it, but that wasn't the outcome for that to happen. (Sarah, 17 years)

While practitioners believed RJ conferencing provided victims and offenders with a participatory role and the opportunity to share their own narratives surrounding an offence, the girls' narratives revealed that this was not always the case:

I found it absolutely useless because we didn't get our point across, we were targeted all the way through it . . . If I probably had to do one again, I wouldn't. I would choose court because you get your point across in court, it is fairer in court . . . You actually get listened to . . . It's funny because they didn't listen to me. They didn't listen to what I had to say . . . we were there to say sorry and explain our side of the story . . . she [victim] didn't even listen to our events, she just went straight in there and every single one of them had a go at us. (Sarah, 17 years)

I just switched off. I never even said anything I just had to agree with everything they said.

(Naomi, 13 years)

These responses do not depict RJ conferencing as an arena in which girls can share their narratives with regard to their offending behaviour but rather as an experience, which silences their subjectivities. As such, the quotes above challenge practitioners' conceptualisation of RJ conferencing as a process that provides all participants with the opportunity to share their experiences and instead articulates alternative narratives.

Due to the dominance of patriarchal power relations in shaping societal relations, the experiences of women and girls have often been excluded from the production of knowledge (Renzetti, 2018). It has been recognised by Worrall (1990) that the voices of women and girls 'are muted within the criminal justice system' (p. 162). She contends that the muting of girls' voices forms part of a broader process of 'multiple discursive oppression which is subtle and sophisticated' (Worrall, 1990: 162). This oppression is, according to Worrall, afforded continuity through systemic refusal by those in authority to accept alternative narratives of female experiences which do not align to their own 'professionally legitimated modes of expression about female conditions of existence' (Worrall, 1990: 162).

Such findings contribute to our understandings of the way women and girls experience oppression in criminal justice processes by providing an insight into the ways in which girls' voices have been 'muted' in the context RJ conferencing.

It has been suggested that the encounter between a victim and an offender which takes place during a RJ conference produces a distinct emotive dynamic. This emotive dynamic present within RJ conferencing is supported by its association with reintegrative shaming ceremonies, which are characterised by inducing within the individual shame, remorse and empathy for her or his offending behaviour (Braithwaite, 1989; Wallis, 2014). The findings from this research revealed a consensus among practitioners that girls were more responsive to RJ conferencing due to a perception that they have heightened emotional and social capacities, compared to boys, and increased levels of empathy. Such heightened emotional capacities were perceived to enhance girls' suitability for conferencing, due to its distinct focus on the emotional interactions and dynamics between victims and offenders. Certain practitioners also expressed that the, perceived, heightened emotional response to conferencing resulted in better outcomes for girls:

If we tell a young woman perpetrator that the victim of her offence doesn't go out the house any more, they have stopped going to school, is drug taking . . . you do get female offenders feeling regret for that. They wanted to take part in the attack . . . they were happy about the violence at the time they just didn't want to leave lasting damage . . . If you tell them that by coming to this conference we are hoping to get this girl to start going out the house again . . ., I find, they engage in that more so than boys. They want to help achieve that outcome. (Stan, Youth Offending Team Senior Officer)

I think that girls generally understand and get it and value it, they embrace the emotional side of it. (Lynn, Restorative Justice Victim Worker)

The dichotomy between women's moral reasoning as being guided by an 'ethic of care' and men's moral reasoning being guided by an 'ethic of justice', developed by Gilligan (1982: 74), can be drawn upon to understand practitioners' conceptualisation of girls as suitable participants for RJ conferencing. A feminine 'ethic of care' is distinguished as being specifically concerned with communication, responsibility and interpersonal relationships (Gilligan, 1982: 74). The 'ethics of justice' concept is considered to be defined by a focus on rules and rights and is constructed based on a hierarchy of values and power, which resolve conflict through objective means (Gilligan, 1982: 74). Gilligan (1982) argued that the male centred 'ethics of justice' (p. 74) is perceived to be superior to the moral reasoning associated with females, resulting in women's voices being marginalised. The core values of the 'ethic of care' principle, identified by Gilligan, have, according to Daly (2003: 202), contributed to the development of a 'gender-linked association' which distinguishes the core values of RJ, as an informal model of justice associated with feminine values. Such arguments may be situated more broadly in relation to the social construction of masculinity and femininity as organising features of social life which shape social norms and expectations that regulate the behaviour of males and females (Renzetti, 2018). It is within such contexts that such responses by practitioners can be understood as a product of deterministic thinking, with regard to female pathology, informed by the social construction of femininity.

The girls' narratives did however provide a more nuanced interpretation of RJ conferencing which served to challenge the responses by practitioners that situated young female offenders as more receptive to the conferencing process. For example, three of the girls described how their participation in the conference was necessary in order to avoid receiving a formal court order:

[Interviewer: Did you feel like you had any choice to go?] No because they said if we didn't go to this meeting then we would be sent to court. (Jenny, 14 years)

Basically, the restorative justice meeting was so we didn't end up going to court and getting it on our record. That was supposed to be the other way. (Sarah, 17 years)

He [police officer] just said if I didn't do it [RJ conference] it could lead to more serious things. (Jemma, 14 years)

Moreover, some of the girls articulated their unwillingness to apologise to the victim of the offence, while others felt that their apology was not accepted:

I just put my head down and everyone sat there waiting for me to say sorry . . . she [facilitator] just kept saying 'when you are hungry you eat' . . . She said it 6, 7, 8, times . . . It took like ten minutes and I just said sorry and they made me say sorry to everyone. She [victim] hit me first, she shouldn't have got involved in that fight, but I had to say sorry to her and everyone else, even though I didn't even start it, she did. (Chloe, 14 years)

[Interviewer: Did you say sorry?] No . . . Because she was speaking about my little cousin's grave . . . I don't like her. (Jemma, 14 years)

I said sorry like a hundred times, I told them I really am truly sorry and I have told them I am sorry millions and millions of times. [Interviewer: Do you think they believed you?] . . . No. (Sam, 14 years)

. . . She didn't accept my apology but she [victim] was thankful for it. I said to her I am genuinely sorry for what I have done . . . I went through a lot of effort to say I was sorry and she didn't even accept it. (Jenny, 14 years)

A position of antipathy, as opposed to empathy, towards the victim of their offence was expressed by some of the girls and it was also revealed that in certain cases reconciliation was not achieved during the conference. This position can be understood in relation to conflicting narratives concerning the way the girls viewed the offence and the circumstances surrounding it and their offence was presented at the conference:

Interviewer: Do you think you were able to make it up to the victim?] No, I wouldn't want to either. (Chloe, 14 years)

I couldn't see her, I couldn't even see her face to face, even now, I couldn't do it because obviously I don't really want to see someone I have done that to . . . [Interviewer: But do you think by going to the meeting you were able to make it up to her?] If she had listened to me and actually listened to my point and what I had to say then maybe but she didn't, so no. (Sarah, 17 years)

[Interviewer: What happened at the meeting?] They was all pointing the finger at me. Like they were saying you shouldn't have hit her and all that . . . but she is the one who touched me first and I don't like getting touched . . . [Interviewer: Do you think you were able to make it up to her?] I still can't stand her. I hate her. (Becky, 14 years)

I flung a chair and he put me in a restraint, and he held me down and it really hurt, so I was like get off me . . . he started struggling and then me hair went in me face . . . I honestly didn't know his face was behind me and flicked me head back and I have head butted him and he has took me down to the floor and he has hurt my ribs and that . . . [Interviewer: How did you feel when you were on the floor?] Really frustrated . . . other girls hit the staff as well but they don't get the police called. (Sam, 14 years)

They were all just there to have a go at me. After it all I wasn't even bothered it made no difference to anything. (Kim, 13 years)

For some of the girls, their refusal and reluctance to apologise to the victim of the offence, as illustrated in the quotes above, is because of the hostility they felt towards them. Such hostility can be explained in relation to the girls' perspectives concerning the context in which the offence occurred. Many of the girls interviewed felt that others, including the victims, should also be held accountable for their behaviour. For example, Chole said that she was assaulted first by the victim of her offence. Becky who assaulted a teacher while being physically restrained defended her actions by explaining that the restraint she was subject to caused her pain and she felt the actions of the teacher who restrained her were not justified. Sam who also assaulted a teacher rationalised her behaviour by explaining that she does not like being touched and retaliated as a reaction to this. For several of the girls interviewed, it was apparent, therefore, that reconciliation was not achieved as a result of the RJ conference. Moreover, the findings presented within this article which emphasise the girls' lack of enthusiasm for the conferencing process also indicates that reconciliation was not achieved in such instances. This raises ethical concerns with regard to the appropriateness of RJ conferencing used in these cases specifically in relation to causing further harm to victims but also in relation to the adverse impact of not reconciling with the victim may have in relation to girls' emotional and physical well-being (see, for example, Hodgson, 2017).

A number of the girls did state that the reason for their participation in the RJ conference was to apologise to the victim(s) of their offence and they contextualised their apologies as necessary to change the negative opinions of them. They did not, however, contextualise their participation in the conference, exclusively or predominantly, as a means to repair harm caused to the victim. Instead, they viewed their participation as an opportunity to share their own accounts of the offence and manage the negative perceptions associated with their identity. Such responses dispel the assumptions made by practitioners, which suggested girls may be more receptive to RJ. Practitioners' perspectives highlighted a tendency towards deterministic thinking regarding girls' experiences of RJ and disregarded girls' agency and ability to act intentionally. As a result, their experiences continued to be marginalised through the production of discourse, which neglected to consider the context of agency, in the formation of the girls' narratives.

Agency, in this context, is demonstrated by the girls as a form of resistance to existing RJ discourse. Agency cannot be understood from an 'exclusively objective perspective but must also be grasped from the subjective perspective of the individual's own experience of the world' (McNay, 2016: 42) in order to understand the way these experiences determine action. Thus, agency also has an 'affective' dimension, which, for women, is inherently implicated within their gendered experiences. Agency as a 'relational phenomenon', therefore replaces the focus upon individual intentions within the operation of interrelated structures of power (McNay, 2016: 42). Resistance, as an expression of agency, is therefore concerned with relations of power and the opportunity for action.

Issues of Power and Control in Restorative Justice Conferencing

The absence of critical considerations of gender, and the social construction of masculinity and femininity within official policy and discourse has meant that the potential for RJ conferencing to (re)produce and exacerbate manifestations of unequal power relations and inequality for girls who are already marginalised, within the youth justice system, and characterised by their position of relative powerlessness within the wider society, remains critically unexplored:

There are a whole range of issues to consider for girls aren't there? The gender of the victim, the gender of the facilitator and co-facilitator. If you don't consider those things then there is a risk of it being unbalanced and disadvantaging the female who has offended. I think definitely, and if particularly they have had negative and or abusive experiences of male power and they find themselves in a room full of males that is not helpful. Are the issues adequately considered? I suspect not actually. If there are gender issues, gender imbalances, previous experiences, they have to be considered, otherwise, whilst it might still work, it won't work as well as it could have done . . . (Jim, Prevention and Restorative Justice Co-ordinator)

The ways in which power functions as a mechanism of social control and shapes gender subjectivity is integral to understanding girls' experiences of power and control dynamics operating within RJ conferences. It was acknowledged by some practitioners that professionals delivering RJ interventions should take cognisance of issues surrounding vulnerability, self-esteem and emotional difficulties, with regard to the impact such issues may have in relation to girls' experiences of power and control dynamics, within a RJ conference. Practitioners suggested that attention should also be given to the gender of the victim, the gender of the facilitator and girls' previous experiences in order to ensure they were not disadvantaged during the RJ conferencing process.

The issue of power, who holds it, how it is exercised, how it is manifested within social relationships and the ways in which it is structurally maintained are significant when examining the use of RJ conferencing with girls. Patriarchal power, and its exercise, can be regarded as an integral concept when attempting to understand how the social construction of gender functions as an organising principle of social life. The implementation of RJ within a justice system, which 'coercively and authoritatively constitutes the social order in the interests of men' (MacKinnon, 1989: 62), determines the need to examine the ways in which power relations function within the context of RJ conferencing, operating as part of an inherently 'gendered institution' (Montoya, 2016: 368).

Predominantly practitioners argued that the potential for unequal power and control dynamics to be present during the conference was minimal as RJ conferencing follows a specific script, which secures the neutrality of the conferencing process by ensuring the focus is solely on the young person's offending behaviour:

I stress all the time, I say we are not there to discuss the person we are there to discuss that behaviour that day and the harm that is caused and who has been affected. If you stick to that you can't go far wrong. (Joanne, Restorative Justice Victim Worker)

Practitioners maintained that the opportunity for unequal power and control dynamics to be present, during a RJ conference, would only arise if the conference facilitator deviated from the script:

If the facilitator uses the script properly, then it should all go well. (Stan, Youth Offending Team Senior Officer)

While certain practitioners recognised that gender should be taken cognisance of, other practitioners also referred to the neutrality of RJ conferencing to elucidate the extent to which gender, as a variable, did not need to be considered within the dynamics of the conferencing process:

The script alleviates that power struggle. (Scott, Substance Misuse Worker)

What the data have overwhelmingly revealed is the conceptualisation of RJ by practitioners as a gender-neutral intervention. The findings reveal that the social construction of gender, operating as a variable within RJ practice, is subject to a process of reductionism by practitioners, whereby they have

neutralised the complexity and hybridity of gender identity and replaced it with individualistic considerations, despite the fact it detrimentally shapes girls' experiences within the social world.

Predominantly, the claims by practitioners, which conceptualised RJ conferencing as a neutral process, failed to acknowledge the extent to which girls' identities and subjectivities were formed through social norms and interactions, confined by gendered scripts. However, the girls' narratives provided insights into their own experiences of power and control, which challenged practitioners' accounts specifically, in relation to the neutrality of RJ secured through the adherence to a specific script. For example, Sarah makes reference to 'Tudor times' and class relations to explain her sense of powerlessness during the conference:

It was like funny in a way because we were there to say sorry and to explain our side of the story and to actually get across what we did wasn't our intention to do, but was speaking down to us and we were the ones there saying sorry, do you get what I mean? And she [victim] didn't even listen to our events first, she just went straight in there and every single one of them had a go at us. They targeted us basically, and every time we tried to explain our version of events she was allowed to butt in but when she was speaking we was not allowed to butt in . . . I reckon her and her family, in the whole of that room, her and her family had the most power . . . Basically, if we were back in Tudor times we would be poor and they would be first class . . . Yeah they were first class, we were the poor, we were third class, they were first. (Sarah, 17 years)

Furthermore, several of the girls stated that their offence was not the only focus of the RJ conference. This contradicts the practitioners' perspectives relating to RJ conferencing and its exclusive focus on one specific offence. Jenny, when talking about her experience, discussed how she felt the victim and their family were making 'sly comments' about her family background after she had disclosed to them, during the conference, that she was 'in care'. She also described how she felt personally attacked by others at the conference and that she was resentful towards the facilitator as he did not intervene and instead 'just sat back and let it happen':

It felt like they were attacking me personally, not only for what I had done but personally they were attacking me. (Jenny, 14 years)

She [facilitator] brought my whole history up with the police . . . she told the school I was in a cell overnight. I didn't want anybody knowing about it. I didn't really want the [school] staff to know about it . . . (Becky, 14 years)

Becky talked about how she was embarrassed when the conference facilitator disclosed to others that she had previously been involved with the police. She felt that this information should not have been shared at the conference and challenged the facilitator when this happened by stating 'that happened when I was younger'.

The quotes above reveal the girls' subjective experiences of power and control dynamics operating within the RJ conferencing arena and challenge practitioners' accounts of RJ being a neutral process. Power is key to understanding how gendered mechanisms of power and social control institutionally operate (Ballinger, 2009). Practitioners have, however, failed to understand how the gender-defined contexts of power relations may be transferred into the RJ arena and impact upon girls' subjectivities. A feminist account of how power functions as a modality of social control and shapes gender subjectivities is integral to understanding young female offenders' experiences of power and control, within RJ conferences. Practitioners did not acknowledge this relationship and how girls' experiences of power and control were inextricably intertwined within it, thus leaving relations of power and

patriarchy in RJ practices excluded and unexplored. A reluctance to appreciate the ways in which the social construction of gender may shape girls' experiences of RJ conferencing represents a reluctance to acknowledge gender as a complex, social and cultural product, which shapes girls' subjectivities and in turn subjects them to interventions, which are operating within gendered institutions, dominated by hetero-patriarchal values (Connell, 2008; Miller and Mullins, 2009). This may be perceived as a failure to deliver a true picture of the reality and representation of girls' subjugated knowledge and the ways in which systems of social stratification are operating in RJ policy and practice. This argument highlights the ways in which the girls' experiences continue to be further subjugated through the process of RJ conferencing.

Discussion

The rationale underpinning this research has centred upon bridging the gap in knowledge concerning young female offenders' experiences of RJ conferencing. The findings, which arose, established a number of significant themes concerning girls' experiences of participating in RJ conferencing. The most recurring of such themes was the extent to which the girls' subjective accounts of RJ conferencing did not support practitioners' perspectives of their experiences. Practitioners conceptualised RJ conferencing as an inherently positive experience, which enabled offenders to make amends with the victim of their offence and hold them accountable for their offending. By building upon and contributing to the existing body of knowledge, concerning gender and RJ, the issues raised in this article have challenged such assumptions.

It is established within feminist criminology that girls' and women's accounts of offending have been marginalised in comparison to males (see, for example, ChesneyLind, 1997; Heidensohn, 1996; Smart, 1976; Worrall, 1990). Therefore, allowing and listening to girls' subjective accounts of their own offending is integral to feminist inquiry (Carrington, 2002). RJ is perceived to be a process, which provides those who participate with the opportunity to 'collectively resolve how to deal with the aftermath of the offence' (Marshall, 1999: 3). As such, it is suggested that RJ provides victims and offenders with a participatory role in addressing the conflict between them (Johnstone, 2011). However, the option to actively participate in the conference was impeded for a number of the girls and their narratives concerning their offending were suppressed during their participation in the conference. It is therefore suggested that the presence of power relations, between young people and adults, and the potential for them to be exacerbated by RJ conferencing requires further consideration.

The findings from this study indicate that RJ conferencing does not exclusively facilitate the opportunity for girls to share their narratives and instead contributes to the silencing of girls' voices. The girls provided a range of insights, which revealed the ways in which RJ conferencing served to marginalise their subjectivities. Furthermore, the girls were constructed, by practitioners, as passive subjects who would naturally adhere to the normative standard of emotional engagement assumed by RJ. The girls' narratives failed to support the perspectives offered by practitioners. Instead, they provided an account of RJ conferencing that contests practitioners' construction of them as feminine subjects that adhered to normative standards of morality and respectability. The girls presented a much more complex picture of RJ conferencing. They discussed how they were reluctant or unwilling to apologise for their offending, how they contested their status as an offender and refuted the positive and beneficial nature of RJ conferencing, described by practitioners. Such subjectivities challenged the conceptualisation of girls as more suitable for RJ.

It is therefore important to consider how girls may seek to demonstrate autonomy in relation to their subjective accounts of participating in RJ. However, due to the marginalisation of their experiences from RJ discourse, the potential for these experiences to be shaped by discourses of femininity and assumptions concerning male and female dichotomies of moral reasoning, remained unexplored in relation to RJ practices.

Within RJ conferencing, two subjects are created: the abject offender and the victim. The offender is a subject who is 'deeply ashamed' about their behaviour and wants to make amends for the harm they have caused. The victim is a subject, who facilitates the offenders' reintegration into the community, by allowing them to make amends. Ultimately, the empirical data revealed how the relationship between the girls and the structured processes of RJ was more complex than dominant discourse would acknowledge. Undoubtedly, adding to such complexity is the nature of the offence committed and the extent to which it has the potential to shape girls' experiences of the conferencing process. Although beyond the scope of this article, it is suggested that this issue is worthy of further discussion.

Although social structures function to shape the narratives of girls, their subjectivity is mediated by their own resistance to the pre-constructed narratives associated with RJ conferencing. Their narratives and subjectivities are formed in the context of resisting these constructions. Power relations function within hybrid paradigms, revealing that the relationships between the subjects and structures are not simply dictated by polarised perspectives that have been conceived in RJ conferencing. Girls' subjectivities are in fact formed by complex expressions and motivations, which precede the scripted narratives prepared by RJ practitioners.

It may be argued that RJ conferencing creates an environment that is hostile, or unforgiving at least, to the socio-structural inequalities that characterise the material and lived realities of girls who enter the youth justice system. Experiences of both victimisation and criminalisation compound the social injustice girls are often subject to. The analysis of girls' interview data indicated that they predominantly internalised their participation in the RJ conference as a negative experience. The data set revealed that the girls felt disempowered, neglected and targeted at various stages of their experience. These findings and issues can be drawn upon to understand the dichotomy between girls' subjectivities and practitioners' perspectives concerning RJ as a strategy of resistance, on behalf of the girls, to RJ as another form of extreme non-interventionism into the broader, more complex problems within which their criminalisation is embroiled.

RJ as a form of non-intervention into the structural inequalities which shape girls' experiences in the social world, while at the same time responsabilising girls for an offence, can account for a sense of powerlessness and evoke strategies of resistance, in order to navigate their experience. Such strategies of resistance can be seen in the ways in which the girls challenged the facilitators' actions during their conference, resisting reconciliation through the demonstration of agency and challenging the marginalisation of their subjectivity through alternative narratives. By resisting RJ discourse, through the expression of alternative narratives, the girls have effectively challenged the dynamics of power inherent within the process and are reformulating their own subjectivities. For the girls who participated in this study, their narratives can be conceptualised as the embodiment of their capability to navigate and give meaning to their own experiences.

The dominant representations of victims and offenders within RJ discourse provides no space for relational subjectivity whereby girls can be seen as both victims and offenders. Instead, RJ discourse considers this victim-offender paradox as independent components, which are not mutually exclusive. In turn, they only offer a polarised construct of girls' offending behaviour and function to contest girls'

subjectivities. Therefore, it is argued that due to the extent to which the structural inequalities in relation to social divisions of gender, race, class, ethnicity, disability and sexuality continue to shape the social world and individual experiences within it, the practical transference of RJ philosophy and values is not straightforward, nor adequate, in responding to girls in conflict with the law. This is because the structural and material conditions shaping girls' lived realities creates a series of problems that RJ is restricted in its ability to resolve. Based on such arguments, the reality is that RJ conferencing may actually serve to reinforce, rather than restore, inequality.

There are profound policy implications arising from these data, which provide a basis in which to argue for expansive feminist engagement with RJ principles and practices, in order to challenge the continued subjugation of girls' experiences and the 'muting' of their voices from RJ discourse. In order to do so, this article advocates for the development and application of a 'girl-wise penology' to RJ practice. It is intended that this recommendation mirrors the pioneering arguments put forward by Carlen (1990: 109) for a 'woman-wise penology' that incorporates the principles of 'remedial action', 'resistance' and 'democratic exploration' in the treatment of women (and girls) involved in the penal system.

It is contended that one of the most important components of this approach would be to engage directly with girls in contact with the justice system in order to gain a detailed insight into the material and lived realities of their lives and make sure that any justicebased intervention is informed by the voices of girls, and responds to the conditions of their lived realities. Thus, in applying a 'girl-wise penology' to RJ policy and practice this article therefore contends that RJ practice, facilitated within the youth justice service, is reformulated to acknowledge girls' experiences, recognise gender as a variable present within RJ practice and explore alternative interventions which centralise the voices of girls in effecting social change and justice for all those involved in the process.

Conclusion

As previously outlined in this article, the impetus to incorporate RJ as a response to young people's offending behaviour has dominated the youth justice arena throughout the past two decades. The momentum to incorporate RJ as a mainstream response to youth offending, and the unequivocal support it has received from policy makers and practitioners, has prompted significant amounts of criminological research and associated critical literature. Despite the extensive bodies of literature, both advocating and critiquing the use of RJ with young people who offend, research concerning young female offenders' experiences of RJ interventions is significantly limited. In addition to building upon and contributing to the existing, yet limited, body of knowledge concerning gender and RJ, the arguments presented within this article give a voice to girls who have remained unheard within the context of RJ discourse. The findings presented here have challenged the construction of RJ conferencing as an arena in which all participants are afforded a participatory role. By drawing attention to the extent to which the girls interviewed felt unable or unwilling to share their narratives with regard to their offending, the findings challenge practitioners' conceptualisation of RJ conferencing as a process that provides all participants with the opportunity to share their own experiences and instead illustrates the marginalisation of girls' experiences.

The article has drawn attention to the ways in which the girls internalised their participation in RJ as a negative experience. It has also explored issues of power and control relevant to RJ conferencing used with offending girls. While practitioners contended that power and control dynamics between victims, offenders, supporters and facilitators are neutralised during a RJ conference, due to a RJ script, the

girls' experiences have further exemplified the opposing perspectives reflected throughout this article. Such findings have revealed how experiences of power and control dynamics, operating within the RJ conferencing arena, challenge practitioners' accounts of RJ being a neutral process on the basis that they have not internalised their participation in RJ as a neutral process. Thus, concerns have been raised with regard to the extent to which RJ has the potential to reproduce and exacerbate unequal power relations that function to the detriment of girls who participate.

By critically exploring RJ practices, through a gendered lens, this article has questioned the extent to which the interests of girls have been excluded. This comparative account of practitioners' perspectives and girls' narratives of participating in RJ conferencing has revealed the extent to which girls have presented themselves as active subjects with agency to define their own narratives, as well as allowing insight into how their subjectivities precede the narratives prepared by RJ discourse. Overall, the article has drawn attention to the disconnect between RJ rhetoric and reality and in doing so, has highlighted the importance of expanding critical perspectives to encompass girls' subjectivities and RJ practice being facilitated within the youth justice service.

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